IN RE:)	JUDICIAL PANEL ON
SILICA PRODUCTS LIABILITY LITIGATION)	MULTIDISTRICT LITIGATION
LIABILITY LITIGATION)	WOLIDISTRICT ETTICATION

SUPPLEMENTAL FILING OF ADDITIONAL EVIDENCE AND STATEMENT OF POSITION PURSUANT TO SEPTEMBER 10, 2004, LETTER OF SUPREME COURT OF TEXAS CLERK OF COURT

Movants file this <u>Supplemental Filing of Additional Evidence Pursuant to September 10</u>, 2004, Letter of Supreme Court of Texas Clerk of Court in support of their <u>Motion to Transfer Pursuant to Rule 13</u> and their <u>Reply to Opposition to Motion to Transfer Pursuant to Rule 13</u> <u>Filed by U.S. Silica Company, Unimin Corporation and Plaintiffs</u> (Respondents). Movants file additional evidence pursuant to the Court's allowance for "interested parties to file additional evidence, statements of position, responses, and replies" in preparation for the October 13, 2004, Multidistrict Litigation Panel hearing.

Since Movants filed their original Motion to Transfer on July 6, 2004, the number of cases affected by this motion has increased from 59 to 71. Those 71 cases are pending in 20 counties and 55 courts across Texas. The total number of plaintiffs has increased to 453.

Movants respectfully request the MDL Panel consider the following evidence in addition to the evidence already on file in this matter:

- 1. Amended Appendix A: updated list of cases filed post-September 1, 2003, affected by this pending Motion;
- 2. Appendix B: September 17, 2004, *Humble Sand & Gravel v. Gomez*, No. 01-0652, Supreme Court of Texas;
- 3. Appendix C: September 23, 2004, Writ of Mandamus opinion regarding the asbestos MDL Court from the 14th Court of Appeals;

- 4. Appendix D: September 29, 2004, "Scheduling Order and Level Three Discovery Order" issued by Judge Ralph K. Burgess in the pending *Nutt, et al. v. Mine Safety Appliance, et al.* case; Cause No. 03C94, In the 5th Judicial District of Cass County, Texas;
- 5. Appendix E: October 29, 2003, Response to Motion to Transfer, filed by Waters & Kraus and joined by various other Plaintiffs' counsel, in *Union Carbide Corp. v. Audrey Amelia Adams, et al.*, Cause No. 03-0895, In the Judicial Panel on Multidistrict Litigation; and
- 6. Appendix F: December 12, 2003, transcript from the hearing on Defendant Union Carbide Corporation's motion to transfer filed in *Union Carbide Corp. v. Audrey Amelia Adams, et al.*, Cause No. 03-0895, In the Judicial Panel on Multidistrict Litigation.

Respectfully submitted,

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